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## Court clarifies plaintiff's ability to reopen a judgment after the fact

After previously granting the defendants' motions for lack of personal jurisdiction, a federal court recently addressed the use of plaintiff's motions and the court's discretion to alter a judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure.

In *Willie Everett, et al. vs. Aurora Pump Co., et al.*, No. 4:17CV230 (E.D. Mo., Jan. 11, 2018), the court held the scope of Rule 59(e)'s ability to alter a judgment is at the discretion of the court, only extending so far as to correct errors of law or fact immediately following a judgment as opposed to opening the door to relitigation and arguments that could have been raised prior to the entry of a judgment.

Rule 59(e) allows courts to alter a judgment as a means of "correcting manifest errors of law or fact or to present newly discovered evidence." While Rule 59(e) gives courts the power and discretion to alter a judgment, Rule 59(e)'s function is limited to rectifying a court's mistakes, not to "relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment."

In sum, Rule 59(e) motions "cannot be used to introduce new evidence, tender new legal theories or raise arguments which could have been offered or raised prior to entry of judgment."

U.S. District Courts, however, are not obligated to reconsider a judgment, and they have "broad discretion" in determining whether to reconsider judgment." In fact, courts "will ordinarily deny a motion for reconsideration unless the party demonstrates a showing of manifest error in the prior ruling or demonstrates new facts or legal authority that the party could not have previously produced with reasonable diligence to the court."

In *Everett*, the court denied the plaintiff's motion for reconsideration after dismissing 14 defendants for lack of personal jurisdiction. The plaintiff's argument heavily relied upon the June 19,

2017, U.S. Supreme Court decision of *Bristol-Myers*, which addressed a new issue of personal jurisdiction under the 14th Amendment but left those same issues of personal jurisdiction under the Fifth Amendment unanalyzed.

The *Bristol-Myers* decision was rendered after the parties in *Everett* had briefed the court on issues of personal jurisdiction, but before the court entered a judgment. As a result, the plaintiff asked the court to reconsider the dismissal of the 14 defendants due to "an intervening change in the law since the parties briefed personal jurisdiction issues for the court."

The court did not agree, however, with the plaintiff's contention that the *Bristol-Myers* decision posed a new issue of law that would affect the plaintiff's case because the question of personal jurisdiction in *Bristol-Myers* under the Fifth Amendment, as applied to federal courts and, in effect, *Everett*, was left open.

The court, instead, found *Bristol-Myers* to reiterate the already well-founded principles of personal jurisdiction, such as a need for an "affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum state," concluding the *Bristol-Myers* decision did not change pre-existing principles of personal jurisdiction, thus, did

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not warrant the alteration of the *Everett* decision pursuant to Rule 59(e).

In opposition to the plaintiff's motion, the defendants argued the *Bristol-Myers* decision was rendered prior to the court's judgment that dismissed the 14 defendants. The plaintiff explained that while *Bristol-Myers* was issued prior to the *Everett* judgment, *Bristol-Myers* was decided

### TOXIC TORT TALK



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after the parties had already briefed the court on issues of personal jurisdiction, in effect, preventing the plaintiff from raising an argument regarding personal jurisdiction.

To this end, the court saw the plaintiff's explanation as an "attempt to avoid Rule 59(e)'s prohibition against raising arguments that could have been raised prior to the decision."

After addressing the plaintiff's motion, the court also addressed the remaining eight motions brought forth by the 14 defendants. Of the eight motions, the

the Federal Rules of Civil Procedure on the grounds that the defendant maintains registered agents and conducts business in the state of Missouri. Additionally, plaintiff Willie Everett was a resident of Missouri and was exposed to asbestos from defendants in the state of Missouri, making it improper to have this matter before a federal court.

The defendant also filed a motion to quash and stay, but the court denied the motion on the grounds that the defendant had been dismissed, thus rendering this subsequent motion moot.

The court also found defendant Eaton Corp.'s motion for reconsideration of the order granting the plaintiff's motion for leave to file an amended petition to be moot as Eaton had also been dismissed.

The court addressed the 14 defendants under the remaining motions to dismiss and for clarification premised upon the plaintiff's motion for leave to file an amended petition stating the plaintiff's motion was granted for the sole purpose of adding a wrongful-death claim and substituting Flora Everett as the executrix of the Willie Everett estate.

The court clarified that allowing an amended complaint "cannot revive that action with respect to dismissed defendants," in reference to the 14 defendants that were dismissed.

With respect to the court's opinion, it is evident the court's holding could make plaintiffs reconsider their options pursuant to Rule 59(e), ultimately enforcing a more diligent practice to ensure all possible arguments are raised in advance of a judgment, not just in advance of a particular phase in the proceedings.

With respect to the courts, this case further solidified the well-founded notions of personal jurisdiction and the broad discretion afforded to the courts as the *Bristol-Myers* decision left questions of personal jurisdiction, as applied to the federal courts via the Fifth Amendment, open and unanalyzed.